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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,650	10/19/2001	Daniel M. Swain	SCM-121-A	9251

7590 09/09/2002

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EXAMINER

MARSH, STEVEN M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 09/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/054,650

Applicant(s)

SWAIN, DANIEL M.

Examiner

Steven M Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is the first office action for U.S. Application 10/054,650 for a Dual Function Mirror Mount filed by Daniel M. Swain on October 19, 2001.

#### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

#### ***Specification***

The disclosure is objected to because of the following informalities: Page 3, line 16 reads, "the mirror head turning relative". The word - - from - - should be inserted between head and turning. Appropriate correction is required.

#### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "22" and "26" have both been used to designate the interior chamber. A proposed drawing correction or corrected drawings are required in

reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7-10 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In dependent claims 7 and 12 Applicant claims an opening in the mirror head. However, these claims are dependent upon independent claim 1, which also claims an opening in the mirror head. It is unclear whether Applicant is referring to an additional opening (i.e. first and second openings) or if there is one opening.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,227,924 to Kerper. Kerper discloses a rear view mirror assembly with a plastic mirror head (16) for mounting a mirror and attachable to the end portion of a

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vehicle support bracket (15). The mirror head has an interior surface with an interior chamber and a periphery shaped to receive a mirror. There is a clamping means for clamping the mirror head tightly, yet turnably, around to the end portion of the bracket. The clamping means has an endwall (24) interiorly of the interior chamber with a socket for receiving the end portion of the bracket and an opening (20) in communication with the socket.

There is a clamping plate (26) formed from a resiliently rigid material (see col. 3, lines 22-25) and having first and second sleeve portions (61 and 62) that cooperate with the endwall, which has first and second sleeve portions (56), to form a socket for captivating the end portion of the bracket and constrain the mirror head to turn about an axis through the socket. The socket means has a plurality of parallel ribs extending upwardly from the endwall (each side of 54) to respective arcuate end surfaces to form a spherical cradle and the ribs extend proximate the opening in the endwall. There is a tightening means disposed at least in part, exteriorly of the interior chamber, for forcing the clamping plate and the endwall towards one another and against the end portion to prevent the mirror head from turning relative to the end portion. The tightening means is a first and second bore provided in the endwall and the clamping plate, respectively, as well as a fastener having a head portion adapted to engage the exterior surface of the mirror head. The faster has a threaded portion sized to pass through the apertures, threadably engage the endwall, and draw the clamping plate toward the endwall with the end portion of the bracket therebetween.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerper in view of U.S. Patent 1,938,541 to Oishei. Kerper does not disclose a ball fixedly connected to a stem of the end portion of the bracket. Kerper does disclose a bushing (28) connected to the end of a stem portion (15) that extends through an opening for rotation within the clamping means. Oishei discloses a rear view mirror mounting with a bracket that is rotatably mounted within a clamping portion (35 and 36). The bracket has a stem (32) with a ball (27) connected to the end portion, which fits into a socket (formed by 37 and 38) in the clamp portion, to allow for rotation of the mirror in relation to the bracket. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have substituted the ball and socket portions taught by Oishei, for the bearing and socket portions taught by Kerper, for the purpose of providing a more effective means of rotation for the mirror in relation to the bracket.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kerper. Kerper does not disclose a mirror head having engagement openings for receiving a mirror with fingers. Kerper does disclose a slot-projection relationship to mount two parts (16 and 24) together. The parts to be mounted using this arrangement are a matter of engineering preference. It would have been obvious to one of ordinary skill in

the art at the time of the present invention to have provided projections on the mirror to engage slots provided on the mirror head.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 2,256,763 to Reed

U.S. Patent 6,371,345 B1 to Leyden et al.

U.S. Patent 3,976,275 to Clark

U.S. Patent 5,316,257 to Schmidt et al.

U.S. Patent 5,483,385 to Boddy

U.S. Patent 5,546,239 to Lewis

U.S. Patent 5,513,048 to Chen

U.S. Patent 5,623,374 to Montanbault

U.S. Patent 4,166,651 to Vandenbrink et al.

U.S. Patent 4,281,815 to O'Connell et al.

The above patents disclose various types of mirror mount assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone

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number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.



Steven M. Marsh

September 4, 2002



ANITA KING  
PRIMARY EXAMINER